IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO.2455 OF 1998

Bank of India
Main Branch
70-60, M.G.Road,
Mumbai 400 023 ...Plaintiff

vs.

Rajesh Rastogi
306,Lovely Palace, Kharigaon,
Bhayander (East),Thane 401 005.

Rameshwar Prasad
39, Simbhar Marg,
Lucknow. ...Defendants

Mr.H.P.Narsana for the Plaintiff

CORAM: A.S.OKA,J.
DATE : JULY 23,2007

JUDGMENT:

1. By order dated 7th November 2006, the suit is already allowed to be withdrawn for want of prosecution against the second defendant.

2. The learned Counsel for the Plaintiff submits that this is a fit case for passing a decree under sub rule 2 of rule 5 of Order VIII of the Code of Civil Procedure,1908. He fairly states that the rate of interest is left to the discretion of the court.

3. Considering the averments made in the plaint and the prayers made therein, there is no reason why the power under sub rule 2 of rule 5 of Order VIII of the said Code should not be invoked for passing a decree against the first defendant.

However, interest payable will be at 6% p.a. from 1st June 1998.

4. Hence, I pass the following order :

. There will be a decree against the first defendant in terms of prayer clauses (a) and (b) subject to modification that the interest payable will be at the rate of 6% p.a. on the sum of Rs.54,374/- from 1st June 1998 till the date of payment or realisation. Certified copy is expedited.

JUDGE